

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 4:17-CV-40011-TSH
)	
v.)	Judge Timothy S. Hillman
)	
DAVID L. TOPPIN,)	
JENNIFER TOPPIN,)	
DEUTSCHE BANK NATIONAL TRUST)	
COMPANY as Trustee for RESIDENTIAL)	
ASSET SECURITIZATION TRUST Series)	
2013-A14, MORTGAGE PASS-THROUGH)	
CERTIFICATES Series 2003-N,)	
UPS CAPITAL BUSINESS CREDIT f/k/a)	
FIRST INTERNATIONAL BANK,)	
COMMONWEALTH OF MASSACHUSETTS,)	
TOWN OF HOLDEN,)	
TOWN OF AMHERST, and)	
TOWN OF GARDNER)	
)	
Defendants.)	

JOINT STATEMENT

The United States of America, David Toppin, Jennifer Toppin, Deutsche Bank National Trust Company as Trustee for Residential Asset Securitization Trust Series 2003-A14, Mortgage Pass-Through Certificates Series 2003-N, UPS Capital Business Credit f/k/a First International Bank, the Town of Holden, Town of Amherst, Commonwealth of Massachusetts, and the City of Gardner (collectively, the “parties”) submit, pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.1(d), this joint statement in connection with the scheduling conference set for May 9, 2017, at 11:00 a.m. In accordance with Fed. R. Civ. P. 26(f) and Local Rule 16.1(b), the parties have conferred with respect to the preparation of this joint statement.

I. Statement of the Case

The government brought this action to collect Defendant David Toppin's unpaid federal income taxes and restitution judgment. The Amended Complaint alleges that Mr. Toppin owes (1) \$722,841.21 for his federal income tax liabilities for tax years 1995 through 1998 and 2000 through 2012, plus statutory additions accruing from December 15, 2016; (2) \$489.14 for his Form 5329 tax liability for tax year 2002 plus statutory additions accruing from December 15, 2016, and (3) \$616,283.70 for his unpaid criminal restitution liabilities for tax years 1997 through 1999, plus statutory additions accruing from December 15, 2016.

Mr. Toppin disputes these liabilities. As his primary defense, he raises jurisdictional and constitutional questions concerning the Internal Revenue Code.

To collect Mr. Toppin's liabilities, the United States seeks to enforce its liens against three pieces of real property. The Amended Complaint alleges that Mr. Toppin fraudulently transferred these properties to his wife, Jennifer Toppin, or that, alternatively, Ms. Toppin holds the properties as Mr. Toppin's nominee.

Both the Toppins dispute these allegations.

The remaining parties are individuals or entities that claim an interest in those real properties.

II. Proposed Discovery Plan and Pretrial Schedule

The parties agree that the issues in this case will likely require a modest amount of discovery, and therefore, conducting discovery in phases is not necessary.

The government and Mr. Toppin propose the following discovery and pretrial schedule:

1. Initial disclosures shall be served no later than May 23, 2018.
2. The deadline to amend the pleadings shall be December 9, 2018.

3. All written discovery and depositions shall be completed by January 9, 2019.
4. The dispositive motion deadline shall be February 14, 2019.
5. A final pretrial conference, if required, shall be scheduled approximately sixty (60) days following the Court's decision on the dispositive motions.
6. The parties do not anticipate the use of expert witnesses, and therefore, have not included an expert discovery timeline.
7. Ms. Toppin has requested a ninety day discovery period.

II. Other Discovery Matters

8. The parties agree that discovery requests, including notices of subpoenas and depositions, may be served via email in lieu of U.S. mail.
9. The parties agree that any discovery requests involving electronically-stored information and responses will be limited to reasonably accessible data retained in a machine readable format, and that any electronically-stored information will be produced in PDF format on a CD or DVD or paper format (except that the parties may hereafter agree to use email for non-voluminous documents). If any party seeks access to electronically-stored information and the responding party believes that the electronically-stored information is not reasonably accessible or that the request is otherwise overly burdensome, the parties agree to meet and confer in good faith regarding the scope of the requests and the costs and burden associated with producing that information.

[signatures are on the following page]

Respectfully submitted,

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Certificate of Service

I, Steven Tennyson, pursuant to D. Mass. Civ. L.R. 5.2(b), hereby certify that on this 4th day of May, 2018, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered participants.

A copy of the foregoing document was also served upon the following party who is not a registered CM/ECF participant, via First Class United States mail:

David L. Toppin
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Holden, MA 01520

/s/Steven S. Tennyson

Steven Tennyson
Trial Attorney, Tax Division
U.S. Department of Justice

* Denotes that the signature was placed by government counsel on the foregoing document based upon the consent of that party.

¹ Mr. Toppin wanted it noted, for the record, that: he “do[es] not wish to contract with the government in any way” and that “anything [he] ha[s] ever signed for any government has been under duress, without recourse.”